COMPILATION

OF

ORDERS OF THE GOVERNMENT OF INDIA

ON THE SUBJECT OF

THE PERSONAL CONDUCT OF PUBLIC OFFICERS IN THEIR RELATIONS TO GOVERNMENT, TO THEIR SUBORDINATES, AND OTHERS.

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OPINIONS OF THE PRESS.

"Mr. I. C. Bose, M. A., Assistant Accountant-General, Bengal, and Mr. G. D. Pudumjee, B. A., Assistant Accountant-General, Bombay, have put together a very brief but very useful compilation of all the Orders of the Government of India on the personal conduct of Public Officers in their relation to Government, to their subordinates and others. The pamphlet costs only eight annas, and, as a handy guide and *vade-mecum*, we recommend it to the attention of all in Government employ. * * * Ignorance of law excuseth no man, and with this admirable little manual in his hand any servant of Government, whether covenanted or uncovenanted, should be able to tread confidently along the difficult pathways of Indian official life. The precautionary finger-posts created at every turning say something for the arduous nature of the journey before him, and when his rules and regulations are aptly summarised, as in the little book before us, they are at once instructive and entertaining."—*The Times of India, October 7th,* 1886.

"We have no motive for advertising it, but in these days every public servant should provide himself with a copy of this pamphlet in self-defence."—*The Englishman, August* 16*th,* 1887.

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ABBREVIATIONS.

G. I. F. D. ... Government of India in the Department of Finance and Commerce.

G. I. H. D. .. Government of India in the Home Department.

G. I. P. W. D. ... Government of India, Public Work's Department.

Rules for the Submission, Receipt and Transmission of Memorials and other papers of the same class, addressed to Her Majesty the Queen, Empress of India, the Right Hon'ble the Secretary of State for India, &c.

(*Government of India, Home Department, Nos.* 707, *dated* 29*th March* 1878, 445, *dated* 18*th March* 1881, 208, *dated* 30*th January* 1879, 2112, *dated* 7*th November* 1879, *and No.* 1883.)

N. B.—These Rules do not, in any way, affect or supersede orders issued on the same object by the Military authorities for the guidance of the Army.

I. No memorial will be received or attended to unless forwarded as hereinafter prescribed.

II. Every memorial should be accompanied by a letter requesting its transmission to the authority to which it is addressed.

III. Every memorial, addressed to Her Majesty or to the Secretary of State for India, should be forwarded through the Local Government under which the writer is residing or is employed.

IV. Memorials to Her Majesty or to the Secretary of State from persons in the Madras and Bombay Presidencies should be forwarded direct by the Local Government, with a full statement of facts and an expression of opinion, except in the case of memorials which relate to any rule or standing order of the Government of India, or which, if granted, would cause expenditure for which the Imperial and not the Local Government would be primarily responsible, or which relate to any legislative proceeding of the Governor-General in Council, or to an

Act to which the Governor-General has assented. (*Vide H. D. No. 445, dated 18th March,* 1881.) Such memorials should be forwarded, with a covering letter containing a full statement of facts and an expression of opinion, to the Government of India in the Department having cognizance of the subject-matter of such memorial, by which Department the memorials will be transmitted to the Secretary of State.

V. Memorials to Her Majesty or to the Secretary of State from persons in Bengal, the North-Western Provinces and Oudh, or the Punjab, should be forwarded by the Local Government, with a full statement of facts and an expression of opinion, to the Government of India, in the proper Department, for transmission to the authority addressed.*

* Appeals by private persons from the orders of Lieutenant-Governors lie, in the first instance, to the Governor-General in Council. An appeal to the Secretary of State will lie only in the event of an appeal to the Governor-General in Council having been rejected.

VI. Memorials to Her Majesty or to the Secretary of State from persons in the minor Administrations—the Central Provinces, British Burmah, Berar, Mysore, Coorg and Assam—should be forwarded with a full statement of facts and an expression of opinion by the Chief Commissioner, or other officer charged with the administration of the Province, to the Government of India in the proper Department, for transmission to the authority addressed.†

† In these minor Administrations also, appeals by individuals from the orders of the Chief Commissioners, &c. lie, in the first instance, to the Governor-General in Council and thereafter to the Secretary of State.

VII. No limit is fixed as to the time within which an appeal from an order of the Governments in India must be preferred to the Home Department, except in the case of appeals from a judicial decision, and in which the Judge is a political officer, and in which the appeal

ordinarily lies to the Political Department. Such appeals must be preferred within a period of twelve months from the date of communication to the persons concerned of the order to which objection is taken.

VIII. Memorials may be transmitted either in manuscript or in print, but must, with all accompanying documents, be properly authenticated by the signature of the memorialist.

IX. Memorials together with their accompanying documents should be in English. If the accompanying documents must necessarily be forwarded in the vernacular, an English translation should be appended, which should be attested by the signature of the memorialist.

N. B.—It will be well for the transmitting officer to examine such translations, and if they are found to be incorrect or faulty, to notice the fact in sending on the memorial.

X. It is not necessary that memorials should be forwarded in duplicate or triplicate. The originals will invariably be transmitted to England, a copy being made and retained by the Government of india, if necessary, for record.

XI. As a general rule, the transmission to England of a memorial duly forwarded through the proper channel will not be delayed by the transmitting Government of India beyond a month after the receipt of such memorial.

XII. Governments and Administrations in India are vested with discretionary power to withhold the transmission of memorials addressed to Her Majesty or to the Secretary of State in the following cases:—

1. When a memorial is illegible or unintelligible.
2. When a memorial contains disrespectful or improper language.
3. When a second memorial is presented after a

decision has already been given by the authority to which it is addressed, and when no new facts or circumstances are adduced which afford grounds for a reconsideration of the case. A memorial addressed to Her Majesty by a person whose appeal to the Secretary of State has already been rejected, shall be held to be a second memorial to the same authority, and shall not be transmitted.

4. When a memorial is a mere application for pecuniary assistance by a person manifestly possessing no claim.
5. When a memorial is an application for employment under one of the Governments in India from a person not belonging to the Covenanted Service.
6. When a memorial is a mere appeal from a judicial decision.
7. When a memorial is addressed by an officer still in the public service and has reference to his prospective claim to pension.
8. When a memorial is an appeal against an order of the Government of India, confirming a decision of a Local Government regarding the dismissal, removal, or reduction of a Government servant whose salary was not more than Rs. 250 a month.
9. When a memorial is a mere appeal against non-exercise by one of the Governments or Administrations in India of a dispensatory discretion vested in such Government or Administration by law or rule.
10. When after the disposal of a first memorial addressed either to the Secretary of State or to the Governor-General in Council, a second memorial

addressed to the Govenor-General in Council which covers the same ground and adduces no fresh matter is presented to a Local Government for transmission to the Government of India, the Local Government may in its discretion withhold the transmission of the second memorial. A list of memorials to the Governor-General in Council withheld under the discretionary power conferred by this rule will be forwarded quarterly to the Government of India for information.

XIII. The Government of India may withhold the transmission of a memorial addressed to Her Majesty or to the Secretary of State, unless the memorialist has previously memorialised the Government of India and the Local Government concerned on the same subject.

XIV. A list of memorials withheld under the discretionary power conferred by Rule XII, will be forwarded quarterly to the Government of India in the case of memorials withheld by Local Governments under the same discretionary power, and by the Government of India in the department concerned, to the Secretary of State.

Rules for the transmission of Letters to Her Majesty the Queen, Empress of India, &c.

(G. I. Home Department, No. 1377, *dated* 23*rd June* 1887, *Gazette of India, June* 25*th* 1887.)

In modification of the instructions contained in Foreign Department Notification No. 1368 P, dated 23rd June 1873, the Governor-General in Council is pleased to decide that all letters or communications, addressed to Her Majesty the Queen, Empress of India, or to Members of the Royal Family, or to high officials of Her Majesty's

Government in England by public bodies or associations in British India, or by individuals resident in British India, shall, in future, be sent through Local Governments and Administrations to the Home Department for transmission to their destination.

The receipt of letters otherwise transmitted will not be acknowledged.

General Rules regarding the Submission of Memorials by Public Servants.

(Home Department, No. 1649, *dated* 19*th October* 1876 *and R. A. C. Department, No.* $\frac{46}{177295}$ *dated* 26*th September* 1879.*)*

ANY combination for the purpose of memorialising any authority to which the memorialists may be subordinate, is forbidden, and the following Rules apply to all officers in Civil employ, in whatsoever Department:—

I. Every officer, wishing to address a memorial to Government, shall do so separately, and not in concert with others; but this prohibition against submission of joint memorials is not intended to apply to, or affect, the private interchange of individual opinions.

II. No officer in the employment of Government may submit any memorial in respect to any matter, connected with the official position which he occupies, in which he is not personally interested, except as the agent of some persons unable to act on their own behalf. The personal interest referred to in this rule may be indirect.

III. No officer in the employment of Government shall submit a printed memorial.

IV. No memorial shall be submitted in a form set for general adoption, but shall be couched in the memorialist's own words and in temperate and respectful language.

V. Any memorial contravening these rules will not be taken into consideration by the authority to which it is submitted; and the officer or officers submitting such memorials will incur the serious displeasure of Government.

The general prohibition against the submission of joint memorials does not affect the case of any correspondence which the Managers of Service Funds, as such, may have to conduct with Government.

Officers may join in combined memorials when the matter about which they wish to petition is not connected with their position as servants of Government. *(G. I. F. D. No.* 895, *dated* 14*th May* 1883.*)*

Rule regarding the Submission of Applications for Patronage for Literary or other Works.

(Government of India, Home Department, No. 1112, *dated* 21*st June* 1878.*)*

THE Governor-General in Council is pleased to direct that Government officers in India, who may desire to solicit Government patronage for literary or other works not published in India, shall apply through the Government of India to the Secretary of State.

(Government of India in the Financial Department No. 2808, *dated* 29*th August* 1883.*)*

The amount of remuneration which should be paid to a public officer who at the request of his Departmental Superior or the Local Government under whom he is employed, gives his leisure to writing a book for official and public use, must be settled, with the sanction of the Government of India in the Financial Department.

Pecuniary Contributions from Native Chiefs towards Public Objects.

In future no officer of Government shall ask or accept any pecuniary aid or subscriptions from Native States in pursuance of public objects, except with the sanction previously obtained of the Local Government to which he may be subordinate.

(*Government of India in the Home Department No.* $\frac{21}{1217-42}$ *dated 11th July* 1885.)

Rules regarding the Connection of Government Officers with the Press.

(*Home Department, No.* $\frac{19}{1134}$, *dated 8th July* 1875.)

I. No Officer in the service of Government is permitted, without the previous sanction in writing of the Government under which he immediately serves, to become the proprietor, either in whole or in part, of any newspaper or periodical publication, or to edit or manage any such newspaper or publication. Such sanction will be given in the case of newspapers or publications mainly devoted to the discussion of topics not of a political character, such for instance as art, science or literature. The sanction will be liable to be withdrawn at the discretion of the Government.

II. Officers in the service of Government are not prohibited from contributing to the public Press; but their position makes it incumbent upon them to confine themselves within the limits of temperate and reasonable discussion, and they are prohibited from making public, without the previous sanction of Government, any documents, papers, or information of which they may become

possessed in their official capacity. These rules have hitherto been in most cases honorably observed. In case of a departure from them, or if the Government should consider the connection of any officer with the press to be contrary to the public interest, his liberty to contribute will be withdrawn.

III. The Government of India will decide, in case of doubt, whether any engagements of officers with the press are consistent with the discharge of their duties to Government.

IV. Nothing in this resolution is intended to relax the provisions of any regulations on this subject which now apply to the Army.

Rules regarding the Holding of Land and Speculation by Government Officers.

(Home Department No. $\frac{21}{797\text{-}806}$ *Simla, the 13th May* 1885.*)*

In the course of correspondence with a Local Government, it has been brought to the notice of the Government of India that some misapprehension exists as to the precise scope and proper interpretation of the standing orders which regulate the connection of public servants with land-holding and commercial speculation in India. The Govenor-General in Council accordingly considers it desirable in continuation of Home Department Resolution Nos. 5-224-246, dated 20th February, 1884, to frame for facility of reference on the part of Local Governments and Administrations and Officers serving under them, a brief summary of the existing rules and

of the more important interpretations which have been placed upon certain of them by the Government of India with the approval of Her Majesty's Secretary of State.

2. Covenanted Civil Servants, Military Officers in Civil employ, and all persons holding Civil Offices, ordinarily held by Covenanted or Commissioned Officers of the two classes above-mentioned, are prohibited from acquiring or holding land within the province in which they are employed or with the administration of which they are concerned, whether that connection be permanent or temporary.* This prohibition does not extend to land occupied merely by buildings for residence and their usual appurtenances.

Acquisition and possession of landed property intended to be applied to agricultural purposes.

* To Secretary of State No. 40, dated 16th June 1873, from Secretary of State No. 99, dated 26th August 1873 (embodied in Home Department Resolution No. 13-467, dated 13th February 1874.)

3. Natives of India appointed under the Statutory Rules are permitted to hold any lands actually in their possession when they enter the service of Government or which may come into their possession thereafter by inheritance, gift† or demise, provided that full information in respect of such lands is given to the Local Government which will consider in each case whether the fact of an officer holding any particular lands need be a bar to his employment in the district where these are situated. No fresh purchase of land is, however, allowed on the part of a statutory civil servant without the previous sanction of the Local Government under which he is serving.‡

† *i. e. Bonâ-fide* gifts from relative or near friends.

‡ Home Department Resolution Nos. 11-426-37, dated 17th March 1882 and Circular Letter Nos. 26-1095, 1104, dated 21st July 1882.

4. Uncovenanted Officers exercising independent, judicial or revenue functions whether of European, Eurasian, or Native descent are not debarred from acquiring or

(Despatch from Secretary of State No. 68, dated 8th June, 1882.)

possessing landed property in British India for agricultural purposes, provided that they must not hold landed property in the districts in which they are employed. Although Uncovenanted Officers are not precluded from holding land, it is inexpedient that appointments which necessarily confer a considerable amount of power and influence on their occupants, such as those of Munsif, Deputy Collector and Tehsilder, should be filled by persons holding landed property within their jurisdiction.*

* Despatch from Secretary of State No 22, dated 10th August 1861.

5. Officers of all classes (including candidates for Office) must be required to make a declaration of the fact of their being in possession of or of their having acquired landed property, stating the district within which it is situated with such other particulars as may be considered necessary, of which registers should be kept by the Local Governments concerned.†

† Despatch from Secretary of State No 22, dated 10th August 1861.

6. It is incumbent on the several Local Governments to take care that no Officer who may be in possession of landed property in British India or elsewhere, to whatever branch of the service he may belong, shall apply any portion of the time and attention which ought to be devoted to his public duties, whether Civil or Military, to the management of that property, and that longer or more frequent leaves of absence are not permitted on that account.‡

‡ *Idem.*

7. Civil Servants and Military Officers in the actual service of the Crown in India are prohibited from holding lands in a Native State for any purpose whatever. This prohibition does not extend to land occupied merely by buildings for residence and their usual appurtenances.

Acquisition and possession of landed property in Native States for any purpose.

8. With regard to investments other than those in land for the profits of cultivation, Officers of every rank and class in the public service are expected to abstain from any investment (though of itself unobjectionable) which interests them privately in affairs or undertakings of the kind with which their public duty is connected.* Subject to this general proviso, there is no objection to Government† servants holding shares in Mining or other Companies (including Agricultural Companies) having for their object the development of the resources of the country, provided that they must not take part in the management of any such Company, and that they must not be employed in the districts where the operations‡ of the Company with which they may be connected are carried on.§ This latter prohibition must be held to apply sometimes with less, sometimes with greater, force to certain Officers connected with the central administration, such as Members of the Local Government, Members of the Board of Revenue and their Secretaries; and to indicate the necessity of great circumspection on the part of such Officers as to the undertakings with which they become connected in any part of the Province in which they are employed.||

Investment other than those in land for the profits of cultivation.

* Paragraph 6 of Despatch from the Government of India to Secretary of State No. 40, dated 16th June 1873; Despatch from Secretary of State No. 99, dated 26th August 1873; and Home Department Resolution Nos. 13, 467, dated 13th February 1874.

† The Secretary of State has held (a) that the standing order as to the connection of Government Officers with trading Companies apply only to Gazetted Officers of the Covenanted and Uncovenanted Services, and do not apply in the case of clerks and other Ministerial Officers in Government employ, with regard to whom the supervision of heads of departments should suffice as a check.

(a) Despatch No. 78, dated 19th July 1883, paragraph 5.

‡ *N. B.*—The right of Officers, Civil and Military, to hold shares in Agricultural Companies operating in Native States, is regulated by the same rule as apply to their holding shares in similar Companies within British Territory.

Despatch from Secretary of State No. 22, dated the 25th November, 1862, paragraph 5.

§ Despatch from Secretary of State No. 46, dated 31st May 1862.

|| To Madras Government No. 1086, dated 10th July 1884.

9. In the matter of taking part in the management of a Company, it has been decided* that the prohibition was not intended to apply to the participation of Government Officers in the direction of those Companies only which are designed to develop the resources of the country, but also to preclude such Officers from taking part in the direction of such institutions as† banks. It has also been held that the prohibition against Officers taking part in the management of a Company applies‡ to public servants on leave equally with those in active service, but that it does not extend§ to Officers who, with the consent of the Government of India, take service under Railway Companies working under concessions from Government, nor does it apply to the management‖ of associations which are established *bonâ fide* for the purpose of mutual supply and not of trade and trade profit (provided in this latter case that the interests of Government do not suffer by the double employment of the officer concerned). Although the prohibition against taking part in the "management" of a Company cannot, taken literally, be held to debar an officer from taking part as a promoter or as one of the applicants for registration in the Memorandum of Association, the Governor-General in Council has held that the danger against which the prohibition was aimed, namely, that of official influence being abused or official trust betrayed, is under such circumstances, not much less than if the officer took part in the management after the Company has been started. Government servants are

* Despatch from Secretary of State No. 73, dated 19th July 1883, paragraph 4.

† Paragraph 4 of despatch from Secretary of State No. 73, dated the 19th July 1883.

‡ From Secretary of State No. 99, dated 7th September 1882.

§ Resolution of the Public Works Department Nos. 1650—1672 G., dated 14th December 1882.

‖ Despatch from Secretary of State No. 73, dated 19th July, 1883.

therefore distinctly forbidden to take any part in the promotion or registration of Companies.

Speculation generally.

10. It is a standing order that servants of Government are required to abstain from speculative investments, but no literal definition has been laid down as to the state at which, or circumstances under which, the holding of land or other valuable property becomes speculative. It is obviously speculative to secure a grant of land supposed to be auriferous with the object of disposing of it hereafter to Companies. Habitual speculation by officials has been always held to be an evil, and the Government has reserved* to itself full power to deal stringently with the practice whenever it appears to prevail. The general distinction which exists between permanent and speculative investments is sufficiently described in the extract given in the margin† from Home Department letter to the Government of Bengal No. 1495, dated 10th April 1873.

* Para 7 of Despatch to Secretary of State, No 40, dated 16th June 1873 Despatch from Secretary of State No 99, dated 26th August 1873.

† The Government of India consider that there exists an essential difference between permanent and speculative investments, that the distinction is one of motive and that the frequency of a man's purchases and sales may be and usually is very good evidence of his motive in effecting them. If an officer habitually buys and sells securities of a value notoriously fluctuating, it is clear that he is addicted to speculation and he thereby undoubtedly lays himself open to the disapproval of Government, which can be expressed in various ways, and in a degree proportionate to the nature of the direction. If he engages such pursuits to an extent which attracts public notice and unfavourable remark, so that his integrity or his application to his public duties is discussed and doubted, then he has given rise to a scandal with which the Government will have to deal.

11. The foregoing paragraphs contain a brief summary of the more important orders which have been issued from time to time on the subjects under notice, and the Governor-General in Council trusts that they will serve as a useful guide to Local Governments and Administrations and to officers serving under them. It should, however, be understood that this summary merely embraces the more important orders, and does not profess to be exhaustive.

Acquisition of Land by Civil Servants for their Relatives.

From the Right Hon'ble Viscount Cross, G. C. B., Her Majesty's Secretary of State for India, to His Excellency the Right Honourable the Governor in Council, Fort Saint George,—No. 18, *(Public), dated, India Office, London, the 28th July* 1887.

2. In the ninth paragraph of his minute ..... raises a question of some importance regarding the interpretation of the orders of the Government, prohibiting members of the Civil Service from acquiring or holding lands for agricultural purposes,—the question, namely, ... whether "the interest in land intended to be prohibited is not a mere personal or individual interest, but extends to the acquisition of land for any relative, more particularly sons."

3. It is perhaps not quite clear in what sense the words "for any relative" in the above paragraph were intended to be used. But taking them in what appears to me to be their ordinary meaning, I am of opinion that the orders of Government do prohibit the acquisition, or holding, of land for agricultural purposes by a Covenanted Civil Servant, for a son or other relative, but that they do not prohibit the acquisition, or holding of land, for such purposes, by a son or other relative, even although the land be acquired with money furnished by the Civil Servant, *provided* that the money was given as an absolute gift, and that the Civil Servant has *bona-fide* no interest whatever, legal or equitable, in the land or its produce.

Rules regarding the treatment of Official Documents by public Officers.

(Government of India, Foreign Department, No. 1597 G. G. dated 22nd August, 1881.)

Extract from a Circular from the Secretary to the Government of India, Political Department, to Residents, Agents, &c., No. 755, dated Agra, the 9th May, 1843.

"I have been directed to inform you that no officer in the Political Department is at liberty to communicate to any one any portion of the instructions he may receive without specific orders to that effect.

2. "The rule with respect to official correspondence is not that an officer is allowed to divulge all he is not specially directed to keep secret, but that he is not allowed to divulge anything which he is not specially directed to communicate."

No. 150 dated 30th August, 1843.

Notification—By the Government of India, in the Foreign Department.

Some misconception appearing to exist with respect to the power which officers of both services have over the documents and papers which come to their possession officially, the Governor-General in Council deems it expedient to notify that such documents and papers are in no case to be made public, or their contents communicated to individuals, without the previous consent of the Government, to whom alone they belong.

The officer in possession of such documents and papers can only legitimately use them for the furtherance of the public service in the discharge of his official duty, and it is to be understood that the same rule which applies to documents and papers, applies to information of which officers may become possessed officially.

The principle laid down above that it is contrary to the duty of every officer, Civil or Military, to make public, or to communicate to individuals, without the previous sanction of Government, any documents, papers, or information of which he may become possessed in his official capacity is re-affirmed in General Order, Foreign Department, dated 15th March, 1847.

The practice of making use of official information for carrying on personal controversies is a course highly prejudicial to the public interests, and is not only at variance with the rules by which due discipline and obedience to superior authority can be adequately maintained, but is a positive breach of faith, inasmuch as no functionary has right to reveal without due authority from his official superiors, or the Home authorities, any fact or circumstance which may come to his knowledge in the performance of his duty or to correspond with any one upon the instructions he may have received for his special guidance.

The Governor-General in Council is persuaded that every officer, Civil and Military, will henceforth conform to this rule of the service under the conviction that if in the transaction of his official duties, his public conduct be impugned, he is at liberty to seek redress through the usual official channel by an appeal to the Government he serves, and that the Government so appealed to will afford him every opportunity of vindicating his character.

Extract from the Proceedings of Government of India in the Home Department, (Public) No. I. C. H., under date Camp Lahore, the 16th December 1878.

Resolution—His Excellency the Viceroy and Governor-General desires to remind all officers of the Government that information received by them in their official capacity, whether from official sources or otherwise, which

is not from its nature obviously intended to be made public, cannot be treated as if it were at their personal disposal.

The Governor-General does not think it necessary to issue any general order, entirely prohibiting the disclosure, without special authority, of any information received officially. In such matters much must necessarily be left to the discretion and intelligence of officers holding places of trust, and in charge of duties more or less important. But His Excellency would impress upon all officers the serious responsibility involved in the exercise of this discretion. Whenever there is any room for doubt as to the right course to be persued, the orders of superior authority should be obtained before information regarding the public affairs is communicated to any one not officially entitled to receive it.

His Excellency the Viceroy and Governor-General has reason to believe that sufficient attention has, not upon all occasions, been given to the principles which should guide the conduct of public officers in these matters, and which are specially applicable to the present time, when much important business is passing through the public officers. And His Excellency trusts that these principles may in future be clearly apprehended and observed.

Government of India in the Home Department No. $\frac{30}{1267\text{-}76}$ *dated 16th August* 1884.

The Secretary of State has forwarded to the Government of India a copy of a Treasury Minute, dated 13th March 1884, respecting the "premature publication of official documents' with the request that similar rules be adopted in this country. The Minute draws attention

to previous orders prohibiting the unauthorized communication to the public press of information derived from official sources, and points out that the communications so prohibited are not confined to matter still under discussion, but include also the unauthorized disclosure of matter finally decided on, but as to which the manner and time of publication may be not less important than the matter itself.

The standing orders of the Government of India on the subject are those quoted above. The Govenor-General in Council desires that these orders may in future be held subject to the further restriction explained in para. 2 above.

Sale of Property to Natives by British officers, whether Civil, Military or Uncovenanted.

(Government of India, Home Department, No., 437, *dated* 23*rd September* 1881.*)*

I. WHENEVER a public servant wishes to dispose of a house, bungalow, elephant, horse or carriage, or other valuable property, to any Native within his Jurisdiction or within the limits of the district in which he is employed on the public service, and from which he is not about to remove, he must report his intention to the Local Government to which he is subordinate, stating the facts and circumstances and the price offered for the article to be sold. The Local Government then will pass such orders on the reference as may seem fit and proper.

II. Whenever a public servant is about to quit his station or district permanently, or for a considerable period, and wishes to dispose of his house, bungalow,

elephant, carriage and horses, and the like property of value, to Native purchasers, he shall report his intention to the Commissioner or head local authority to which he may be immediately subordinate, and that authority will use its discretion in allowing the transaction, or in reporting the circumstance to the Local Government for further orders.

III. Whenever a public servant, on quitting his station or district, wishes to dispose of his furniture, household goods, live-stock, &c., he is at full liberty to do so, either by circulating lists of such property amongst the community generally, or by having the same put up to public auction, without reference to any authority whatever. All that is necessary is that the transaction should be open and patent to every body on the spot.

IV. Rule I is to be considered applicable to purchases equally with sales.

Note.—The rules regarding the sale of property by Government officers are not applicable to *bona-fide* transactions with regular dealers.

(Government of India, Home Department, No. 53, dated 20th January 1882.*)*

Employment of Public Servants in any private business in which the Receipt or Expenditure of Money is concerned.

His Excellency in Council takes the opportunity afforded by Mr.————'s plea that it is no unusual thing to employ peons in procuring bazar supplies, to direct that the Government of Bengal will impress emphatically on all public officers that the employment of public servants in making purchases, or in any private matters

in which the receipt or expenditure of money is concerned, is most strictly prohibited, and that every breach of the order which is brought to the notice of Government will be severely dealt with.

(*Government of India, Home Department, No.* 121, *dated* 16*th January* 1873.)

NOTE.—It is not intended that the above prohibition should preclude officers from employing public servants to procure for them conveyance or necessary supplies while they are travelling upon duty, though in all such transactions constant vigilance is needed to prevent cheating and extortion. But a recent case has compelled the Government of India to repeat with emphasis the standing order against employing public servants in any private business, more especially on any private bargain on money matters. His Excellency in Council believes that the distinction is patent, and that the wording of the resolution thus interpreted cannot in practice interfere with administrative agencies. (G. I. 895, dated 22nd May 1873.)

Rules regarding the Acceptance of Presents by Public Servants.

(*Government of India, Foreign Department, No.* 1299*G*, *dated* 20*th June* 1876.)

I. THE main provisions of the law on the subject are contained in 13. Geo. III., Chapter 63, Section 23-24; 33 Geo. III., Chapter 52, Sections 62-63; 3 and 4 William IV., Chapter 85, Section 76 (quoted below).

II. The prohibition of the receipt of presents from Native Chiefs and others, does not extend to the receipt of few flowers or fruits, and articles of inappreciable value, although even such trifling presents should be discouraged.

III. It does not extend to the exchange of presents between Governors, Lieutenant-Governors, Chief Commissioners, Agents to the Governor-General, or Political Officers generally, in their ceremonial intercourse with Native Chiefs, on which occasions the presents from the Chiefs are deposited in the Government Toshakhana and return presents are given at the public expense.

IV. It does not apply to presents to Medical officers made *bona-fide* for services rendered.

V. The general prohibition extends to all servants of Government, Native or European, Covenanted or Uncovenanted, in whatever department they may be serving.

VI. Where presents cannot absolutely be refused without giving offence, they must be delivered up to Government and to this rule no exception whatsoever is permissible, save with the express sanction of His Excellency the Governor-General in Council, which will only be given under very special circumstances.

2. The Governor-General in Council desires that the above rules may be strictly observed, and no deviation therefrom permitted, except with the previous sanction of the Government of India.

(*Extract* 13 *Geo. III., Chapter* 63, *Sections* 23 *and* 24.)

XXIII. And be it further enacted by the authority that no Governor-General, or any of the Council of the said United Company's Presidency of Fort William in Bengal, or any Chief Justice, or any of the Judges of the Supreme Court of Judicature at Fort William aforesaid, shall directly or indirectly, by themselves, or by any other person or persons, for his or their use, or on his or their behalf, accept, receive or take, of or from any person or persons, in any manner or on any account whatsoever, any present, gift, dona-

The Governor-General, Council and Judges, restricted from accepting any presents.

tion, gratuity or reward, pecuniary or otherwise, or any promise or engagement for any present, gift, donation, gratuity or reward.

XXIV. And be it furthur enacted by the authority aforesaid that from and after the first day of August one thousad seven hundred and seventy-four, no person holding or exercising any Civil or Military Office under the Crown or the said United Company in the East Indies shall accept, receive, or take, directly or indirectly, by himself or any other person or persons on his behalf, or for his use or benefit, of and from any of the Indian Princes or Powers, or their Ministers or Agents (or any of the natives of Asia) any present, gift, donation, gratuity, or reward, pecuniary or otherwise, upon any account, or on any pretence whatsoever, or any promise or engagement for any present, gift, donation, gratuity or reward.

No. Person holding a Civil or Military Office under the Crown or Company shall accept any donation or gratuity.

(Extract 33 *Geo. III. Chapter* 52, *Sections* 62 *and* 63.*)*

LXII. And be it further enacted that the demanding or receiving any sum of money, or other valuable thing, as a gift or present, or under colour thereof, whether it be for the use of the party receiving the same, or for, or pretended to be for, the use of the said Company, or for any other person whatsoever, by any British subject, holding or exercising any office or employment under His Majesty or the said United Company in the East Indies, shall be deemed and taken to be extortion and misdemeanour at law, and shall be proceeded against and punished as such, under and by virtue of this Act; and the offender shall also forfeit to the King's Majesty, his heirs and successors, the whole gift or present so received, or the full value thereof.

Receiving gifts to be deemed a misdemeanour.

LXIII. Provided always, and be it further enacted, that the Court or Jurisdiction before whom any such offence shall be tried, shall have full power and authority to direct the said present or gift, or any part thereof, to be restored to the party who gave the same, or to order the whole, or any part thereof, or of any fines which the Court shall set on the offender, to be paid or given to the prosecutor or informer, as such Court in its discretion shall think fit.

(Extract 3 and 4 William IV., Chapter 85, Section 76.)

LXXVI. And be it enacted that there shall be paid several officers hereinafter named, the several salaries set against the names of such officers, subject to such reduction of the said several salaries respectively as the said Court of Directors with the sanction of the said Board, may at any time think fit: that is to say,—

Salaries of Governor-Generals &c., fixed to be in lieu of all fees, &c.

To the Governor-General of India, two hundred and forty thousand Sicca Rupees. To each Ordinary Members of the Council of India ninety-six thousand Sicca Rupees.

To each Governor of the Presidencies of Fort Saint George, Bombay, and Agra, one hundred and twenty thousand Sicca Rupees.

To each Member of any Council to be appointed in any Presidency, sixty thousand Sicca Rupees. And the salaries of the said officers respectively taking upon them the execution of their respective offices; and the said salaries shall be the whole profit or advantage which the said officers shall enjoy during their continuance in such offices respectively; and it shall be, and it is hereby declared to be, a misdemeanour for any such officer to accept for his own use, in the discharge of his office, any present, gift, donation, gratuity, or reward, pecuniary or otherwise, whatsoever, or to trade or traffic for his own benefit, or for the benefit of any other person or persons whatever, &c.

Acceptance of gratuities a misdemeanour. Passage money fixed.

ACT No. XXXVII OF 1850.

For regulating Inquiries into the Behaviour of Public Servants.

Passed by the Hon'ble the President of the Council of India in Council, on the 1st of November 1850, *with the assent of the Most Noble the Governor-General of India.*

WHEREAS it is expedient to amend the law for regulating inquiries into the behaviour of public servants not removable without the sanction of Government, and to make the same uniform throughout the territories under the Government of East India Company, it is enacted as follows:—

I. The following Acts VI, 1838, XXVI, 1839 and XIII, 1843, are repealed, but not so as to revive any Act or Regulation, or part of any Act or Regulation thereby repealed.

II. Whenever the Government shall be of opinion that there are good grounds for making a formal and public inquiry into the truth of any imputation of misbehaviour by any person in the service of the East India Company, not removable from his office without the sanction of the same Government, it shall cause the substance of the imputations to be drawn into distinct Articles of Charge, and shall order a formal and public inquiry to be made in to the truth thereof.

III. The inquiry may be committed either to the Court, Board or other authority to which the person accused is subordinate, or to any other person or persons, to be

specially appointed by the Government, Commissioner for the purpose : notice of which commission shall be given to the person accused ten days at least before the beginning of the inquiry.

IV. When the Government shall think fit to conduct the prosecution, it shall nominate some person to conduct the same on its behalf.

V. When the charge shall be brought by an accuser, the Government shall require the accusation to be reduced to writing, and verified by the oath or solemn affirmation of the accuser, and every person who shall wilfully and maliciously make any false accusation under this Act, upon such oath or affirmation, shall be liable to the penalties of perjury : but this enactment shall not be construed to prevent the Government from instituting any inquiry which it shall think fit, without such accusation on oath or solemn affirmation as aforesaid.

VI. Where the imputations shall have been made by an accuser and the Government shall think fit to leave to him the conduct of the prosecution, the Government before appointing the commission shall require him to furnish reasonable security that he will attend and prosecute the charge thoroughly and effectually, and also will be forthcoming to answer any counter charge or action which may be afterwards brought against him for malicious prosecution or perjury or subornation of perjury, as the case may be.

VII. At any subsequent stage of the proceedings, the Government may, if it think fit, abandon the prosecution, and in such case, may, if it think fit, on the application of the accuser, allow him to continue the prosecution, if he is desirous of so doing, on his furnishing such security as is hereinbefore mentioned.

VIII. The Commissioners shall have the same power of punishing contempts and obstructions to their proceedings, as is given to civil and criminal Courts by Act XXX 1841, and shall have the same powers for the summons of witnesses, and for compelling the production of documents, and for the discharge of their duty under the commission, and shall be entitled to the same protection as the Zillah and City Judges, except that all process to cause the attendance of witness, or other compulsory process shall be served through and executed by the Zillah or City Judge in whose jurisdiction the witness or other person resides, on whom the process is to be served, and if he resides within Calcutta, Madras or Bombay, then through the Supreme Court of Judicature there. When the commission has been issued to a Court or other person or persons having power to issue such process in the exercise of their ordinary authority, they may also use all such power for the purposes of the commission.

IX. All persons disobeying any lawful process issued as aforesaid for the purposes of the commission, shall be liable to the same penalties, as if the same had issued originally from the Court or other authority through whom it is executed.

X. A copy of the Articles of Charge, and list of the documents and witnesses by which each charge is to be sustained shall be delivered to the person accused, at least three days before the beginning of the inquiry, exclusive of the day of delivery, and the first day of the inquiry.

XI. At the beginning of the inquiry, the prosecutor shall exhibit the Articles of Charge to the Commissioners, which shall be openly read, and the person accused shall thereupon be required to plead "guilty" or "not guilty" to each of them, which pleas shall be forthwith

recorded with the Articles of Charge. If the person accused refuses, or without reasonable cause neglects to appear to answer the charge either personally or by his Counsel or Agent, he shall be taken to admit the truth of the Articles of Charge.

XII. The prosecutor shall then be entitled to address the Commissioners in explanation of the Articles of Charge, and of the evidence by which they are to be proved; his address shall not be recorded.

XIII. The oral and documentary evidence for the prosecution shall then be exhibited: the witnesses shall be examined by or on behalf of the prosecutor, and may be cross-examined by or on behalf of the person accused. The prosecutor shall be entitled to re-examine the witnesses on any points on which they have been cross-examined, but not on any new matter, without leave of the Commissioners, who also may put such questions as they think fit.

XIV. If it shall appear necessary before the close of the case for the prosecution, the Commissioners may in their discretion allow the prosecutor to exhibit evidence not included in the list given to the person accused, or may themselves call for new evidence, and in such case the person accused shall be entitled to have, if he demand it, an adjournment of the proceedings for three clear days, before the exhibition of such new evidence exclusive of the day of adjournment and of the day to which the proceedings are adjourned.

XV. When the case for the prosecution is closed, the person accused shall be required to make his defence, orally or in writing, as he shall prefer. If made orally, it shall not be recorded; if made in writing, shall be recorded

after being openly read, and in that case a copy shall be given at the same time to the prosecutor.

XVI. The evidence for the defence shall then be exhibited, and the witnesses examined, who shall be liable to cross-examination and re-examination and to examination by the Commissioners according to the like rules as the witnesses for the prosecution.

XVII. All witnesses, either for the prosecution or defence, shall be examined on oath, or, if exempt from taking an oath in Courts of Justice, on solemn affirmation, to be administered in either case by one of the Commissioners, and every withness so examined and willfully giving false evidence on any material point shall be deemed guilty of and liable to the penalties of perjury. When the prosecution is not conducted on behalf of Government, the prosecutor may himself give evidence for the prosecution and may be examined for the defence.

XVIII. The Commissioners or some person appointed by them shall take notes in English of all the oral evidence, which shall be read aloud to each witness by whom the same was given, and if necessary explained to him in the language in which it was given, and shall be recorded with the proceedings.

XIX. If the person accused makes only an oral defence, and exhibits no evidence, the inquiry shall end with his defence; if he records a written defence, or exhibits evidence, the prosecutor shall be entitled to a general oral reply on the whole case, and may also exhibit evidence to contradict any evidence exhibited for the defence, in which case the person accused shall not be entitled to any adjournment of the proceedings, although such new evidence were not included in the list furnished to him.

XX. When the Commissioners shall be of opinion that the Articles of Charge, or any of them, are not drawn with sufficient clearness and precision, the Commissioners may, in their discretion, require the same to be amended, and may, thereupon, on the application of the person accused, adjourn the inquiry for a reasonable time. The Commissioners may also, if they think fit, adjourn the inquiry from time to time, on the application of either the prosecutor or the person accused, on the ground of the sickness or unavoidable absence of any witness or other reasonable cause. When such application is made and refused, the Commissioners shall record the application, and their reasons for refusing to comply with it.

XXI. After the close of the inquiry, the Commissioners shall forthwith report to Government their proceedings under the commission, and shall send with the record thereof their opinion upon each of the Articles of Charge separately, with such observations as they think fit on the whole case.

XXII. The Government on consideration of the report of the Commissioners, may order them to take further evidence, or give further explanation of their opinions. It may also order additional Articles of Charge to be framed, in which case the inquiry into the truth of such additional articles shall be made in the same manner as is herein directed with respect to the original charges. When special Commissioners have been appointed, the Government may also, if it thinks fit, refer the report of the Commissioners to the Court or other authority to which the person accused is subordinate, for their opinion on the case; and will finally pass such order thereon as appear just and consistent with its powers in such cases.

XXIII. The word "Government," as used in this Act, means the Governor-General in Council, the Governor or Deputy Governor of the Presidency of Fort William in Bengal, the Governor in Council of the Presidencies of Fort St. George and Bombay respectively, and the Lieutenant-Governor of the North Western Provinces of Bengal, whose sanction is necessary for the removal of the person accused.

XXIV. Nothing in this Act shall be construed to repeal any Act or Regulation in force for the suspension or dismissal of Principal and other Sudder Ameens or of Deputy Magistrates or Deputy Collectors, but a commission may be issued for the trial of any charge against any of the said officers, under this Act, in any case in which the Government shall think it expedient.

XXV. Nothing in this Act shall be construed to affect the authority of Government, for suspending or removing any public servant for any cause without an inquiry under this Act.

A. D. 1823, REGULATION VII.

A Regulation for prohibiting Loans by Covenanted Civil Servants from persons subject to their official authority and influence. Passed by the Governor-General in Council on the 30th October, 1823, corresponding with the 15th Cautick 1230 *Bengal era,* 1231; *the 11th Cautick* 123 *Fusly; the 16th Cautick* 1231 *Willaity; the 11th Cautick* 1880 *Sumbut, and the 24th Suffer* 1230 *Higeree.*

Preamble.

WHEREAS by the existing Regulations all Covenanted Civil Servants of the Company, employed in the Judicial and Revenue Departments of the Service, are prohibited from lending

money, directly or indirectly, to any proprietor, or farmer of land, dependant talookdar, under farmer or ryot, or their sureties, and whereas it is equally necessary to prohibit the public officers from borrowing money from persons subject to their official authority and influence, the following Rules have been enacted by the Governor-General in Council, and are to be in force from the date of their promulgation throughout the provinces immediately subject to this Presidency.

Civil Servants in every Department prohibited from borrowing money from the Native Officers under their authority, and the connections of such Officers.

II. *First.*—All Covenanted Civil Servants, in whatever Department of the Public Service they may be employed, are henceforward prohibited, under pain of dismissal from office, from borrowing money from, or in any way incurring debt to, any Native Officer under their authority, or under the authority of any of their Subordinate functionaries, or from or to the known surety, agent, relation, connection, or dependant of any such native officer, or from or to any person of whom such native officer may be known to be or to have been the servant, agent, surety, or dependant.

And from other persons officially accountable to them.

Second.—In like manner and under the like penalty, all Officers of Government being Covenanted Civil Servants, are henceforward prohibited from borrowing money from or in any way incurring debt to any manager, guardian, executor, ameer, sezawul, gomashtah, farmer, motuwullee, or other person, who may in any way be officially accountable to them, or from and to the known surety, agent, relation, connection, or dependant of such person.

Third.—Section IV, Regulation XXI, 1814, is hereby rescinded; and the provisions of Sections II and III of that Regulation shall henceforward be heed applicable to Commercial Residents and Commercial Agents, as well as to all other Officers of Government being Covenanted Civil Servants.

Provisions of Regulation XXI, 1814, extended to Civil Officers in the Commercial Department, as well as to all other Officers being Covenanted Civil Servants.

III. All Judges of Zillah and City Courts, all Magistrates, Joint Magistrates, Registers, and Assistants to Magistrates, all Collectors, and Deputy Collectors of the land Revenue, all assistants to such Collectors or other officers, exercising the powers of such Collector, are prohibited under pain of dismissal from office, from borrowing money from or in any way incurring debt to any Zemindar, Talookdar, Ryot, or other person possessing real property, or residing in, or having a Commercial establishment within the city, district, or division, to which their authority may extend.

Certain officers prohibited from incurring debt to Zemindars and others residing in, or having property within, their districts.

IV. All persons are prohibited from lending money, or otherwise becoming in any way creditor to any Officer of Government, being a Covenanted Civil Servant, in contravention of the above Rules:—And any person lending money, or in any way becoming creditor to any such Public Officer in breach of this prohibition, shall forfeit to Government a sum equal to the amount for which he shall have so illegally become creditor.

Prohibition against lending money to Civil Servants, contrary to the above Rules.

Penalty from breach of this prohibition.

V. If any Officer of Government now in debt shall at the expiration of one year, from the promulgation of this Regulation, be still indebted to any person from

Officer in debt contrary to the above Rules, to report the fact at the expiration of one year.

whom it would at such period be illegal for him to borrow under the above Rules, it shall be incumbent on such Officer to make known the circumstance to the Governor-General in Council; and in the event of intimation not being so given, the same penalty shall attach to the said Officer, as if the debt had been incurred subsequently to the promulgation of this Regulation.

Penalty for omitting so to report.

VI. In like manner, if any Covenanted Servant, who may be hereafter appointed to any office shall, at the time of such appointment, be indebted to any person with whom, it would be illegal for him to contract a loan, while holding such Office, it shall be incumbent on such servant before entering on the duties of the Office, to make known the circumstance to the Governor-General in Council: and failing to do so, he shall be subject to the same penalty as if the debt had been contracted subsequently to his being appointed to the said Office.

Officers receiving new Appointments if indebted to individuals, contrary to the above Rules, to report.

Penalty for omitting to report.

VII. Any native causing himself to be appointed to any Office in opposition to the provisions of Regulation XXI 1814, as hereinbefore extended, or in any way knowingly accepting Office in contravention thereof, shall forfeit to Government a sum equal to ten times the yearly salary or allowances attached to the situation to which he may be appointed.

Penalty on natives knowingly taking Office in contravention of the above Rules.

VIII. Suits for the recovery of penalties incurred under this Regulation, shall and may be instituted under the special instructions of the Governor-General in Council, and shall be conducted by the Superintendent

Penalties to be enforced by prosecution at the suit of Government.

and Remembrancer of Legal Affairs, or by such other Officer as Government may nominate for that purpose; such suits shall be instituted in the Provincial Court of the Division, within which the transaction may have taken place, or the lender may reside, or may possess real or personal property. An appeal shall be from judgements passed in such cases, in like manner as from other judgments passed in original suits, by the Provincial Courts, and the judgments shall be enforced under the provisions of the Regulations for the execution of other decrees of the Civil Courts.

Rules on the subject of Arbitrations.

(*Civil Account Code, Rule* 8 (*c*) *Chapter* 7*a*.)

1. An officer shall not act as an Arbitrator in any case without the sanction of his immediate superior, unless he be directed so to act by a Court having authority to appoint an Arbitrator.

2. No public officer shall act as an Arbitrator in any case which is likely to come before him in any shape in virtue of any Judicial or Executive Office which he may be holding.

3. If an officer acts as an Arbitrator at the private request of disputants he shall accept no fees.

4. If he act by appointment of a Court of Law, he may accept such fees as the Court may fix.

Rules regarding the Dismissal of Public Servants.

[*Home Department, No.* $\frac{17}{1389\ 1404}$ *dated* 29*th July*, 1879.]

From time to time petitions, or appeals, against the orders of Local Officers removing or dismissing Govern-

ment servants, reach the Government of India. Such appeals ordinarily are forwarded through, or are reported upon, by the Local Governments. And the Governor-General in Council is glad to say that he very rarely indeed sees ground for thinking such removals hasty or unjust. The general rule of the service is that the authority, who can appoint to a particular office, has power to dismiss or remove from that office; and an appeal lies from an order of dismissal to the official superior of the officer who passes such order. Since the date of the order passed by the Court of Directors in 1851, no general instructions on the subject of dismissing public servants have been circulated by the Government of India. Local Governments, from time to time, have issued such orders, and a copy of a recent circular of the North-Western Provinces Government on the subject is appended to this resolution.

His Excellency the Governor-General in Council believes that the forbearance and consideration enjoined by the Hon'ble Court are usually exercised by public officers of all grades and departments; but at the same time he deems it advisable to republish those instructions with the following remark:—

1. In order that a dismissed servant of Government may be able to exercise his right of appeal, it is obviously necessary that the charge against him, his defence, and the order thereon, should be reduced to writing. And this course, so far as the Governor-General in Council is aware, is usually taken. In the case of public servants who are dismissed in consequence of facts or inferences elicited at a judicial trial, or in the case of persons who abscond with accusation over their heads, this procedure may be unnecessary or impossible. But in all other cases

of the dismissal of public servants, the charge against a public servant should be reduced to writing, his defence should be either taken in, or reduced to writing, and the decision on such defence should also be in writing. In many cases (such for instance as that of a clerk at an outlying tahsil station) the officer who passes the order of dismissal may be able to make the inquiry himself, and the proceedings leading to dismissal would be conducted by the superior officer on the spot. The record of such charge, defence and decision would then furnish sufficient information for, and should be submitted to, the superior officer or the Government, to whom the dismissed servant may prefer an appeal.

In regard to the rules of conduct which should guide the relations of superior officers with their Subordinates, the Governor-General in Council fully concurs in the views expressed by the late Court of Directors in paragraphs 4 to 9 of their Despatch No. 42 of 1851, copies of which are appended below :—

No. 11 A, dated Camp Lucknow, the 13th April, 1877.

From

C. ROBERTSON, Esq.,
Offg. Secretary to the Government of North-Western Provinces and Oudh,

To

ALL HEADS OF DEPARTMENTS, COMMISSIONER, AND DISTRICT OFFICERS IN THE NORTH-WESTERN PROVINCES AND OUDH.

It has frequently been noticed by the Government, in petitions from persons who have been degraded or deprived of their situations in the public service, that the petitioners have not had an opportunity of explaining their conduct, and of making their defence, before being reduced or dismissed from their appointments.

The Lieutenant-Governor and the Chief Commissioner accordingly directs that in all cases of punishments, and specially in all cases of dismissal, the person concerned shall always be given a hearing before the final order is passed; and a formal proceeding, embodying the statements taken and the reasons of dismissal, shall invariably be recorded.

Extract from Paragraphs 4 to 9 of a Despatch from the Hon'ble Court of Directors', No. 42, dated 6th August 1851.

Para. 4.—In the letter from the Secretary to the Sudder Board of Revenue, North-Western Provinces, conveying the opinions of the Members of that Board, we notice the following passages:—

"It scarcely needs to be stated that Native Officers are frequently dismissed from their situations, not for proved deliquency, or any tangible matter, or substantial charge, but in accordance with the opinions of their immediate superiors, taken up against them sometimes hastily.

"A large portion of the public servants are under the absolute control of one officer, who has the absolute power of dismissal, and men are consequently often dismissed by caprice and also as a punishment.

"An officer, often too, dismisses a man merely as a punishment, with the intention frequently carried out of re-appointing him.

"Further the Native Servants of Government are treated with a degree of hardship which stands in remarkable contrast to the conduct adopted towards Europeans or officers of mixed parentage. To such an extent does this severity prevail that all Prudent Natives resign when they perceive that their superiors do not regard them with favor. This state of things has the worst effect on our Native Officers. It induces them to "make hay while the sun shines;" and to add to the severity now used by pronouncing every man dismissed, incapable of serving Government would only add to the evil.

"Once again, the Junior Member of the Board takes this opportunity to put on record his deliberate opinion that less caprice, less severity, less indignity, in the treatment of Native Servants of Government is necessary if Government would be well served by them."

Para. 5.—We confess we have perused these statements with pain and deep regret. If the treatment of Native Officials by their Covenanted superiors be indeed generally of the harsh character here alleged, it is most discreditable to those Members of our Civil Service who have practiced it.

Para. 6.—But the rule we instructed you to introduce, in place of aggravating the evil, as is alleged, will in reality ameliorate the position of the Uncovenanted Servants. We would establish it as a principle that when persons are appointed to permanent situations in any department, they should not be dismissed upon light grounds. Fraud and dishonesty, continued and wilful negligence, and all offences involving moral disgrace meet with their appropriate punishment in dismissal, and our position is that in every case in which that punishment is inflicted upon just grounds, the individual should be considered to be permanently excluded from Government employ. With regard, however, to the instances of arbitary dismissal for slight reasons, adverted to by the Secretary to the Board of Revenue, we can neither recognize their propriety nor see the advantage accruing to Government from the practice. It may be doubtful whether the punishment of temporary suspension under the name of dismissal "with the intention of re-appointment" has any beneficial operation as regards the supposed offender. But we cannot doubt that it must tend to impede the business of the office by raising fears in the minds of the other Native Officials that the caprice of their superiors may inflict upon them the same penalty. We consider it more likely that Government will be well served if it is distinctly understood that probity and diligence are the conditions of continued employment, than if the subordinates work in slavish dread of their official superior, knowing that his whim, prejudice, or passion may at any hour eject them from their situations and reduce them to destitution. In our opinion, moreover, the knowledge that gross misconduct will altogether exclude from the service of Government, will operate as an additional inducement to the honest and attentive discharge of duty on the part of Native Servants. If the offence, which a Subordinate may commit, be considered by the chief of his office to merit severe punishment, though not the ultimate one of dismissal, the circumstances should be reported to higher authority, and, if necessary, to the Government for their judgment and decision.

Para. 7.—The salutary tendency of the proposed rule will, therefore, be to make subordinates more faithful in the discharge of their duties, and superiors more cautious in inflicting punishment upon those under control. Necessary as it is that the power of dismissal should be vested in the chiefs of departments, it is equally desirable to check and, as far as may be practicable, to regulate that power. If evidence of this be required, the letter from the Agra Board of Revenue affords it, and we shall here further quote the sentiments of the Junior Member of that Board as a corroboration of the view which we are led to take of this question. He observes that since he has entered the service "the Government have done much to temper the arbitrary severity with which their Native Officers are treated by their European fellow-servants, and they have in consequence materially increased the honesty and faithfulness of that deserving class of men, but more remains to be done, and he doubts not, will be done by degrees." We give due weight to the opinions to which we have adverted, and under the explanation we have now given, we are not disposed to depart from our order of the 10th July 1850.

Para. 8.—There is, however, a class of cases which does not come within the intention of our order, though erroneously considered in this light by the authorities in the North-Western Provinces—we mean cases of inaptitude for the particular branch of occupation to which a Native servant may have been originally appointed, as well as cases of physical incapacity. The latter must be treated according to rule, and with regard to the former we cannot but think that in the majority of cases the difficulty might be overcome by a re-adjustment of duties, without recourse to the harsh steps of removal from office.

Para. 9.—We would, in conclusion, express our hope that the notice we have taken of this subject will have the beneficial effect of inducing the exercise of greater forbearance and a more just consideration on the part of our Civil Servants towards the useful and deserving class of men placed in subordination to them. With respect to the most important class of those men, namely, those receiving salaries of above Rs. 10 a month, and to some of whom, under certain restrictions, pensions are granted upon retirement, we think that you might issue instructions that you should be kept advised of the dismissal of

all individuals composing that class, and of Causes of their dismissal. This would afford an opportunity for inquiry into Cases in which the cause might appear unsatisfactory or questionable, which does not at present exist. Should any instances unfortunately occur to disappoint the expectation which we have expressed, that greater forbearance and justice will be exercised towards the Native Servants, we desire to be invariably informed of them, whether they shall occur in the class above referred to or in any other, and we shall feel it to be our duty to visit such conduct with the expression of our severe displeasure.

No. 50—1682, *dated Simla, the* 13*th November*, 1883.

From

G. S. FORBES, Esq.,
Offg. Under-Secy. to the Govt. of India,
Home Department,

To

THE SECRETARY TO THE GOVERNMENT OF BENGAL, GENERAL DEPARTMENT.

I AM directed to forward, for the information of His Honor the Lieutenant-Governor, the accompanying copy of a Resolution recorded by the Government of Bombay on the subject of dismissals of native subordinates for misconduct.

Extract from the Proceedings of the Government of Bombay, Judicial Department, No. 7170, dated Bombay Castle, 16th October, 1883.

READ the following :—

Resolution of Government on the subject of the procedure that should be adopted when native subordinates in the Civil Departments are dismissed from pensionable service for misconduct.

RESOLUTION.—The Court of Directors, by Despatch No. 42 of 6th August 1851, enunciated their views on the habit imputed to

European heads of offices and departments of inconsiderately dismissing native subordinates. This habit had been reported to the Court of Directors as deeply rooted. The Court quoted a member of the Agra Board of Revenue as observing that since he had entered the service the Government have done much to temper the "arbitrary "severity with which their native officers are treated by their "European fellow-servants, and they have in consequence materially "increased the honesty and faithfulness of that deserving class of "men, but more remains to be done, and he doubts not will be done "by degrees." The purport of the instructions then laid down was that native subordinates were not to be dismissed merely in consequence of unfavourable opinions entertained towards them by their superiors, or for slight reasons, but on proof only of tangible delinquency in such matters as "fraud and dishonesty, continued "and wilful negligence, and all offences involving moral disgrace," and a subordinate once dismissed, upon just grounds, was to be permanently excluded from Government employ.

2. After 28 years, *i. e.*, in July 1879, the habit adverted to was found to be still existent in sufficient force to induce the Government of India to republish these instructions of the Court of Directors with an expression of their own concurrence, and to add to them as follows:—

In all cases of the "dismissal of public servants, the charge "against a public servant should be reduced to writing, his defence "should be either taken in or reduced to writing, and the decision on "such defence should also be in writing." As a reservation it was stated: "In the case of public servants who are dismissed in conse-"quence of facts or inferences elicited at a judicial trial, or in the "case of persons who abscond with an accusation over their heads, "this procedure may be unnecessary or impossible."

3. In May last, by Resolution No. 1549 of the General Department, this Government further added the orders that "the dismissing "authority should always record in English under his own handwrit-"ing a statement showing briefly, but clearly, the charges brought "against the official, the evidence supporting those charges, the "motives which are supposed to have influenced him, and the opinion "of the dismissing authority on each charge."

4. Cases that have lately come before Government suggest that even additional fulness and precision should be given to the orders of Government.

5. The Governor in Council would first observe that the state of things now calling for correction is not quite the same as that which attracted the notice of the Court of Directors in 1851. The Court had in view the habit of dismissing native officials in consequence merely of the unfavourable opinion of their superiors, or for slight reasons, but as a rule subordinates are now dismissed only on very precise charges of delinquency. The same disposition of mind, however, on the part of European superiors, which in former days led to the dismissal of native subordinates on slight charges, now too often leads to the hasty acceptance of evidence as establishing serious charges.

6. The Governor in Council will now state why the late Rules do not sufficiently ensure that the defence of a native subordinate shall be patiently heard before his dismissal is recommended or ordered. The Rules require that the charge shall be reduced to writing, that the defence shall be given in or reduced to writing, and that the decision shall be in writing, and comprise certain details. But all this is compatible with the disposal of the Case in a very offhand way. It would seem indeed as if the Rules were sometimes taken as meaning that the charge against the accused might be communicated to him and his explanation taken by correspondence, whereas the first principles of justice require that he should be brought before the enquiring officer in person. Again, it is not enough that he should be told of the charge he has to meet—he should be told also of the evidence and arguments in support of the charge before he is required to defend himself. It is very unfair that he should not know the case against him until the enquiring officer has actually committed himself to a decision.

7. The necessary orders so far are that an enquiry in judicial form should precede an order or recommendation for dismissal. It is not meant that the admission of evidence should be restricted by the law of judicial evidence. All evidence which in the opinion of the enquiring officer conduces to moral conviction should be admissible, but in whatever form received, it should be noted and explained to the

person charged. Much evidence could be recorded simply in the form of questions to which the person charged should be required to give specific answers. He should be allowed besides to place on record a full written statement of his defence.

8. In the next place some principle should be laid down for guidance in those cases where there is strong suspicion rather than actual proof against the person implicated. The intention of Government is that no servant of theirs should be dismissed except on proof, but *proof* in the great majority of cases, even in a court of justice, means no more than a preponderance of probabilities, and the estimate of what the preponderance ought to be and is, varies with the temperament of the judging officer. Executive Officers in the matter of dismissals have to discharge the judicial function, but do not always possess the judicial faculty. It is necessary, therefore, to lay down, as a general rule, that no subordinate should be dismissed except on grounds capable of being stated. There is a distinction between judicial enquiries and departmental enquires as regards the admissibility of evidence, but there should be no distinction as regards the decision being based solely on the evidence admitted.

9. It may indeed be thought that in some cases a compromising suspicion is in itself a sufficient reason for removing a subordinate from the service of Government, but if so, this should be honestly stated, and there should be no pretence of proof when there is only suspicion. The subordinate should not be dismissed with disgrace, but allowed to resign, or simply relieved of his office. And in such cases it is more necessary than ever that the exact case against him should be carefully recorded, in order that he may, if possible, satisfy any other employer who has the means of livelihood in his gift.

10. The possibility of men being removed from the public service on mere suspicion suggests the difficult question of the moral liability of Government in such cases to make compassionate allowances. It has been decided, and the Governor in Council thinks rightly, that the admission of such liability would work mischief to the public service in its general effect. But if a man has earned, or nearly earned, his pension, this would not be a proper case for removal on suspicion. He would necessarily be an old servant of Government, who has reached a time of life when it would be most improbable

that he could turn to any other occupation for a livelihood. The sudden beggary of a man whose working days are drawing to a close is as serious an exercise of power as the penal sentence of a Court of Justice, and should not be inflicted on hap-hazard principles. The Pension Rules, moreover, provide that a portion of the pension may be withheld from those whose service has not been entirely approved.

11. The Governor in Council considers that in proportion as the evidence falls short of full proof, consideration should be given to the previous character of the subordinate concerned, and especially to any specific instances of good or bad service that may have been officially noted in his case. It would seem sometimes as if previous good conduct was regarded as an aggravation of a man's offence as showing concealment of his true character. It would, in the opinion of the Governor in Council, apart from the question of evidence, work well for the service of the public if subordinates were able to feel that a good character and acts of good service would stand them in real stead when their conduct is exposed to question.

The admission, however, of evidence of previous bad character requires great caution. It was argued lately in a petition that if one fault is taken as evidence of another, the first punishment of a small fine expands into dismissal by a sort of natural growth. It is certainly not uncommon for dismissing officers to support a weak case by reference to previous punishments for misconduct, too slight for confidence that it received close attention.

12. Controlling officers, as, for instance, Commissioners, to whom orders of dismissal are submitted for confirmation or on appeal, should be reminded that they have an individual responsibility of their own. They must, of course, on certain points, like all appellate authorities, place confidence on the judgment of the officer who has personally conducted the enquiry; but they should withhold this confidence unless it is clear from the proceedings that the enquiring officer has acted with care and fairness. No defects in the record of enquiry should be passed over with such reflections as that the enquiring officer is very careful man, and that he probably knows a good deal more about the case than he has been able to say. If there are such defects, the case should be remanded for further enquiry, and the

are forbidden to receive Complimentary or Valedictory Addresses in any form ; or to accept testimonials of any kind; or to attend public meetings or complimentary entertainments of a formal and public character held in their honour.

2. The Government views with disfavour all such manifestations in the case of retired officers when following immediately upon their retirement from active service, and designed as an acknowledgment of acts done by them which in the service of Government.

3. It is not intended to prohibit such an expression of regard for the private or official character of an officer retiring from Service, or leaving his station or district, as is involved in a farewell entertainment, supported by his personal friends, even though some of these may be his official subordinates. But it is expected that the proceedings on such occasions will be substantially of a private and informal character.

4. Local Governments and Administrations are authorised to forward to an officer who has left a station or district the resolution of any local public body recording a note of thanks to him for help and advice afforded during his official connection with the station or district.

5. Medical officers are not prohibited from receiving pecuniary recognition of their services from a community or body of persons which may desire to acknowledge these; but the previous sanction of the Local Government or Administration must be obtained by medical officers before receiving any public complimentary address.

6. Nothing in the above Rules is meant to prohibit compliance with the request of a public body that a Government officer should sit for his portrait, bust, or statue in recognition of his public services, provided

that the portrait bust or statue is not intended for presentation to the officer concerned.

7. The participation of Government officers to the raising of funds for the foundation of scholarships, or of procuring a portrait, bust or statue, as a spontaneous recognition of the services of Government officer is not forbidden, but it should be carefully understood that any solicitation on the part of officers of Government for subscriptions from any person, who does not voluntarily come forward to contribute, is disapproved by the Government of India.

8. The previous sanction of the Government of India must be obtained to the relaxation of these Rules in any special case in which the Local Government or Administration may think this desirable.

No. 1244, *dated Simla, the* 27*th August*, 1881.

From

THE HONORABLE C. GRANT, C. S. I.,
Secretary to the Government of India,
Home Department.

To

THE RESIDENT AT HYDERABAD.

I am directed to acknowledge the receipt of your letter No. 272, dated the 16th ultimo, explaining the circumstances under which an address was presented to ——— an Assistant Commissioner in the Hyderabad Assigned Districts. You take the opportunity of inquiring whether the standing orders, which prohibit the receipt of addresses by Government servants, apply

(1) to the case of addresses presented to a Government officer by persons unconnected with the province to which he may belong; and

(2) to the case of an officer who has actually retired from the service of Government.

2. In reply I am to say that the Governor-General in Council does not consider it desirable to make any general exception to the standing rule in respect of addresses presented to an officer of Government by persons unconnected with the province to which he may belong. The presentation of addresses, even under such circumstances, might lead to inconvenient consequences, although there may be special cases, such as that of the address received by————at Poona, in which the presentation and receipt of an address may be objectionable, and which may, therefore, properly form an exception to the general rule. Such cases, however, are scarcely likely to be of frequent occurrence, and the Governor-General in Council would prefer to deal with them on their merits as they may arise.

3. With regard to the second question raised in your letter under reply, I am to observe that the propriety of receiving an address after retirement from the service of Government must depend largely on the particular circumstances of each case.

For instance, it is obvious that when the presentation of an address immediately succeeds retirement, and is intended as an acknowledgment of acts performed by the recipient whilst in the public service, the spirit of the existing rule is contravened; and, therefore, the presentation of addresses under such circumstances should be discouraged. On the other hand, it would be clearly impossible for the Government to impose any general prohibition on the receipt of addresses by officials who had permanently severed their connection with the Government service. In the present case, however, it seems to the Governor-General in Council that there was a clear

departure from the existing rule, in as much as ——— when he received the address presented to him at Bassein, was still in the service of Government.

Regulations respecting Foreign Orders.

Government of India, Foreign Department No. 900 G. dated 29th April, 1886.

1. No subject of Her Majesty shall accept a Foreign Order from the Sovereign of any foreign country, or wear the Insignia thereof, without having previously obtained Her Majesty's permission to that effect, signified by a warrant under Her Royal Sign-Manual.

2. Excepting in the case of special complimentary Missions to Foreign Sovereigns, such permission shall not be granted to any subject of Her Majesty unless the Foreign Order shall have been conferred in consequence of active and distinguished service before the Enemy, either at Sea or in the Field; or unless he shall have been actually and entirely employed, beyond Her Majesty's dominions, in the service of the Foreign Sovereign by whom the Order is conferred.

3. The intention of a Foreign Sovereign to confer upon a British subject the Insignia of an Order must be notified to Her Majesty's Principal Secretary of State for Foreign Affairs, either through the British Minister accredited to the Court of such Foreign Sovereign, or through His Minister accredited at the Court of Her Majesty.

4. If the service for which it is proposed to confer the Order has been performed during War, the Notification required by the preceding clause must be made not later than two years after the exchange of the ratifications of a Treaty of Peace.

If the service has been performed in time of Peace, the Notification must be made within two years after the date of such service.

5. After such Notification shall have been received, Her Majesty's Principal Secretary of State for Foreign Affairs shall, if the case comes within the conditions prescribed by the present Regulations, and arises from Naval or Military services before the Enemy, refer it to Her Majesty's Principal Secretary of State for the War Department, previously to taking Her Majesty's pleasure thereupon, in order to ascertain whether there be any objection to Her Majesty's permission being granted.

A similar reference shall also be made to the Commander-in-Chief if the application relates to an officer in the Army, or to the Lords of the Admiralty if it relates to an officer in the Navy.

6. When Her Majesty's Principal Secretay of State for Foreign Affairs shall have taken the Queen's pleasure on any such application, and shall have obtained Her Majesty's permission for the person in whose favour it has been made to accept the Foreign Order, and wear the Insignia thereof, he shall signify the same to Her Majesty's Principal Secretary of State for the Home Department, in order that he may cause the Warrant required by clause 1, to be prepard for the Royal Sign-Manual.

When such Warrant shall have been signed by the Queen, a Notfication thereof shall be inserted in the "Gazette," stating the service for which the Foreign Order has been conferred.

7. The Warrant signifying Her Majesty's permission may, at the request and at the expense of the person who has obtained it, be registered in the College of Arms.

8. Every such Warrant as aforesaid shall contain a clause providing that Her Majesty's license and permission does not authorise the assumption of any style, appellation, rank, precedence, or privilege appertaining to a Knight Bachelor of Her Majesty's Realms.

9. When a British subject has received the Royal permission to accept a Foreign Order, he will, at any future time, be allowed to accept the Decoration of a Higher Class of the same Order, to which he may have become eligible by increase of rank in the Foreign service, or in the service of his own country; or any other distinctive mark of honour strictly consequent upon the acceptance of the original Order, and common to every person upon whom such Order is conferred.

10. The preceding clause shall not be taken to apply to Decoration of the Guelphic Order, which were bestowed on British subjects by Her Majesty's predecessors, King George IV. and King William IV., on whose heads the Crowns of Great Britain and of Hanover were united.

Decorations so bestowed cannot properly be considered as rewards granted by a Foreign Sovereign for services renderd according to the purport of Clause 2 of these Regulations. They must be rather considered as personal favours bestowed on British subjects by British Sovereigns, and as having no reference to services rendered to the Foreign Crown of Hanover.

Regulations respecting Foreign Medals.

1. Applications for permission to accept and wear Medals which, not being the Decoration of any Foreign Order, are conferred by a Foreign Sovereign on British subjects in the Army or Navy, should be addressed to the Commander-in-Chief or the Lords of the Admiralty,

as the case may be, who, if they see fit, may submit the same for Her Majesty's sanction, upon obtaining which they may grant such permission without other formality.

2. Any other British subject, having obtained Her Majesty's permission, is at liberty to accept and wear a Foreign Medal, not being the Decoration of a Foreign Order.

3. No permission is necessary for accepting a Foreign Medal, if such Medal is not to be worn.

Rules regarding the Gratuitous Attendance upon Officers by Civil Surgeons.

The Governor-General in Council is accordingly pleased to decide that all officers of Government in the Bengal Presidency living at the Head Quarter Station of a district and drawing a salary (as defined in the Codes of the Financial Deprtment) of Rs. 250 and over, whether Gazetted or not, shall in future be entitled to gratuitous medical attendance at their own residences from Civil Surgeons. Gazetted officers, excepting Probationers for the Native Civil Service and Assistant Superintendents of Police, drawing less than Rs. 200 per month will no longer be entitled to the gratuitous medical attendance of a Civil Surgeon. (G. I. H. D. Proceedings No. $\frac{12}{334-5}$ dated 15th August, 1884.)

Medical attendence on, and supply of medicines to, Government Clerks and their Families—From 1st January 1885.

1. All clerks of Government Offices are entitled to gratuitous medical attendence and medicine for themselves.

2. All clerks of Army Head Quarter Offices are entitled to similar privileges for themselves and their families.

3. Subject to the above rules, clerks drawing Rs. 250 per mensem and upwards are entitled to the services of the Civil Surgeon

and those drawing less than that amount to the services of the Assistant Surgeon or medical subordinate provided for the purpose, it being understood that, in conformity to para. 4 of circular letter dated 31st August 1869, above quoted, the attendance of the Civil Surgeon should be given in all cases of emergency or of great danger or difficulty, when applied for by the Subordinate medical attendant.

(*G. I. Home Department No.* $\frac{14}{447-64}$ *dated 25th October* 1884.)

NOTE—The above order Regarding gratuitous medical attendance on and supply of medicines to Government clerks was not intended to apply to Calcutta.

(*G. I. H. D. No* 58, *Dated 27th February* 1885.)

NOTE (2). The Government does not undertake to re-imburse to a public servant, who is entitled to the gratuitous attendance of a Government Medical Officer or medicines from a Government Dispensary, fees which he may have occasion to pay to a medical practitioner not in the public service, or the cost of medicines which he may purchase privately.

(*G. I. F. D. No.* 2067 *dated 28th July* 1877.)

Clerks in one office seeking employment in another.

Resolution—By the Government of India, Department of Finance and Commerce.
No 546 *dated* 31*st January* 1888.

IT has been brought to the notice of the Government of India that officers employed under Government sometimes obtain leave of absence, with the intention of taking up other employment under Government or otherwise, or accept such employment while on leave. Where this is done with the previous knowledge and consent of the Officers' Departmental superior, the practice is not open to

objection. There is reason however to believe that, in the absence of any specific directions, officers are apt to consider it unnecessary to obtain the consent of their immediate superior before accepting employment elsewhere; and as it seems advisable that this practice should be discontinued, the Governor-General in Council has prescribed the following rules:—

I.—No Head of an Office should employ, either temporarily or permanently, an officer belonging to another establishment, without the previous consent of the officers on whose establishment he is at the time borne. In cases in which, for reasons which may appear satisfactory to the new employer, such consent cannot be obtained before the officer joins his new appointment, his employment may be made conditional on consent being obtained in due course.

II.—It shall be incumbent upon an officer employed under Government, whether on leave or not before accepting other employment, either to resign his previous appointment, or to obtain the consent of his Departmental superior to his accepting such employment. If such consent is not obtained, either previously or, when this is not possible, in due course, the officer renders himself liable to be discharged from his previous appointment, and thus to lose the benefit of his previous service for pension.

2. There is nothing in these rules to prevent an officer on one establishment seeking employment on another. But an officer is not placed under any disability by resigning one appointment to take up another (Civil Pension Code, 101,1); and it must be held to be a breach of discipline, if an officer actually transfers his services to a new employer without first obtaining the consent of his old employer, or definitely resigning his old employment.

Medical Certificates.

Medical Certificates should ordinarily be accepted only from Government Medical Officers who are under Government control and supervision. (G. I. H. D. Med. No. 8-410, dated 13th November 1883.) It is not necessary to insist on the course prescribed when certificates are required to justify mere casual leave of absence. (G. I. H. D. No. 1, dated 3rd January 1884.)

Vaccination Certificates for Candidates for Government Employ.

The Governor-General in Council is willing to leave the matter to the discretion of Local Governments and Administrations, or as regards establishments in Native States, to the Foreign Department. If, however, the Local Government of any Province in which the rule is already in force should see fit in future to apply it to candidates for appointments in the gift of such Local Government, the Governor-General in Council will be prepared to make the rule applicable also to Imperial Departments in that Province. In the case of those Provinces in which the rule is already in force, the Governor-General in Council sanctions its extension to candidates for employment in departments directly administered by the Government of India. (G. I. F. D. 492, dated 30th January 1886.)

Legal Matters.

1. A covenanted Civilian taking the benefit of the Insolvent Act is suspended, pending the decision of the Home Authorities. (Home Department, dated the 26th January 1855.)

2. When a servant of Government is committed to prison, either for debt or on a criminal charge, he should be considered as under suspension from the date of his arrest, and not allowed to draw any pay until the termination of the proceedings against him, when an adjustment of his allowances will be made according to the circumstances of the case, the full amount being given only in the event of the officer being acquitted of blame, or (if the imprisonment was for debt) of its being proved that the officer's liability arose from circumstances beyond his control.—Extract from Despatch from the Secretary of State, No. 80 of 1859, dated the 22nd December. (Circular in the Home Department, dated the 6th February 1860.)

3. A public servant arrested for debt, or having recourse to the Insolvent Court, will be deemed to have forfeited his appointment, unless it can be proved that his embarrassment was the result of unforeseen misfortune or of circumstances over which he could have no control. This rule should be strictly observed, and every case should be reported to Government with a copy of the Schedule filed in the Insolvent Court when recourse is had to that Court. (Home Department No. 100, dated 12th January 1856 and No. 300, dated 8th February 1880.

4. As there is reason to believe that the operation of these orders has to some extent been lost sight of, the Governor-General in Council in reproducing them desires to direct the attention of all Local Governments and Heads of Departments to the imperative duty which devolves upon them of taking severe notice of the misconduct of clerks and other employes who allow them to fall into embarrassed circumstances. It is no valid

excuse for hopeless indebtedness to show that it has been caused by standing security for friends, the plea which is put forward in such cases. Assistants in Government Offices should clearly understand that if they voluntarily contract debts or obligations which they are unable to meet, they render themselves liable to summary dismissal :—Proceedings of G. I. in the Home Department (Public) No. $\frac{2}{17-102}$ the 19th January 1884.

5. Whenever a Government Official is judicially convicted of any offence, a copy of the decision should be sent to the Head of the Department in which he is employed, in order that such action in the case as may be deemed proper may be taken at once. (Circular in the Home Department, dated 7th August 1868.)

Acceptance of Illegal Gratification.

The receipt, acceptance of an offer, or the attempt to obtain any consideration beyond the legal remuneration of any person in the service of Government is punishable under Sec. 161 of the Indian Penal Code, quoted below :—

"Whoever, being or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever other than legal remuneration, as a motive or reward for doing, or forbearing to do, any official act, or for showing, or forbearing to show, in the exercise of his official functions, favor or disfavor to any person, or for rendering or attempting to render any service or disservice to any person with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-

Governor or with any public servant as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money. The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

Service of Summons on Government Employes.

When the defendant is a public officer, the Court may send a copy of the summons to the head of the office in which the defendant is employed for the purpose of being served on him, if it appear to the Court that the summons may be most conveniently so served. (Sec. 422, Act XIV, of 1882.)

Pecuniary Arrangements with Members of a Service or Department.

The Governor-General in Council considers it desirable to republish for general information, the Orders issued by the Government of India in Notification No. 216 (General Department,) dated 9th September 1842, prohibiting Civil and Military servants of the Government from entering into pecuniary arrangements with members of the service or department to which they belong, in connection with the resignation of any appointment held by them. Officers of Government are warned that any violation of

these Orders will be severely visited on the offender :—(No. 55, dated 29th December 1883, Secretary to the Government of India, Home Department—Public.)

It having come to the knowledge of Government that very erroneous impressions are entertained on the subject of pecuniary arrangements, referable to the resignation of appointments, the Honorable the President in Council is pleased to give notice that all such arrangements are prohibited, and that on proof of any appointment Civil or Military, having been resigned under such circumstances, the nomination consequent on such resignation will be cancelled, and the parties concerned suspended the service in Public Orders pending the pleasure of the Honorable Court of Directors :—(No. 216, dated 9th September 1842, General Department—Government of India.)

Certificates to Subordinates.

The Governor-General in Council has recently had under consideration a case in which a Public Officer, the Head of a Department, in granting a certificate to one of his subordinates, suppressed the true reason for which the suborbinate had been removed from his appointment. Such an omission may obviously be injurious to the interests of the Public Service. I am therefore directed to draw attention to the subject and to request the issue of Orders to all Public officers, warning them to be careful, in giving certificates to their subordinates, to state the whole truth in respect of character and cause of dismissal or resignation of appointment. (Circular, Home Department, dated 15th June 1869.)

Uncovenanted Officers not be Members of a Bank's Board of Directors.

Uncovenanted officers are prohibited from being members of a Bank's Board of Directors. (G. I. F. D. No. 287, dated 18th January, 1883.)

Compensation for Loss of Property.

An officer is not entitled to compensation for loss of property caused by accident, merely because such accident may have happened to him while he was employed in the service of the State. The Government cannot indemnify its officers against every loss which they may suffer while in its service. (G. I. F. D. No. 370, dated 4th May, 1880.)

Acceptance of any Pay or Fee from any other Government etc.

11. It is a well-understood principle that the Government does not allow its officers to take any pay or fees whatever from any other Government, body, or individual, unless the services of such officer are, by special permission, lent to such Government, body or individual. (Financial Department, No. 2873, dated 26th August, 1875.)

Payment of Arrears of Salary due to Deceased Officers.

The salary due to a deceased Officer should be paid to his heirs to the extent of Rs. 500 in each case, after such inquiry into the rights and title of the claimants as the Collector or other Officer responsible for the

payment may deem sufficient. If, however, there is any reasonable doubt regarding such claim or title, or if the amount exceeds Rs. 500, the payment should be made only to the person duly authorised to receive assets, belonging to the estate of the deceased. (Civil Account Code, Note 2, Rule 4, Chapter 2.)

Postage and Registration.

Service postage stamps are not to be affixed to letters affecting only the private interests of the sender. When any person applying for leave sends his application by post, he must always pre-pay the postage at his own expense, as must also be done in the case of all applications affecting only the private interests of the applicants. (Financial Department No. 2006, dated 15th July 1860.)

Telegrams regarding Leave, Pay &c.

Government officers sending telegrams regarding leave, pay, appointment or promotion, or other matters of a private character, must pay for them, unless it is perfectly clear that the interests of the public service will be injuriously affected unless the message in question is sent by telegraph. (Government of India, No. 418, dated 30th April 1868.)

Opening of Public Letters and Introduction of Private Letters into Public Correspondence.

All public authorities are enjoined either themselves to open, or to cause to be opened in their presence, all public letters to their address, and to transmit to the post office of the station every private letter which may come in a public cover.

Every public officer is enjoined to warn his subordinates that any one who is detected in attempting to evade the payment of postage dues, by the introduction of private letters into the public correspondence, will be dismissed from his employment. (Calcutta Gazette No. 131, dated January 15, 1834.)

Departmental Orders.

No officer of the Financial Department shall accept any fee or remuneration for auditing accounts, or for any other work, save with the express consent of the Governor-General in Council. (Civil Account Code, Rule 7, Chapter 78).

NOTE.—This Rule applies to all officers whether gazetted or not:—(Government of India, Financial Department No. 3394, dated 27th December 1882.)

"After a period of six months from the date of this Notice no officer of Her Majesty's Indian Marine, or serving under the Marine Department, will be allowed to undertake private surveys, or other private business, except with the express permission of the Government of India.

"Such permission will not be given, if there be at the place persons not in the service of Government competent and willing to perform the work; and when in the absence of such persons permission is given, the work must be performed out of office hours, and must not in any way be allowed to clash with the officer's proper duties. (G. I., Military Marine Department, No. 41, dated 21st December 1877.)"

Allowances of Covenanted Civilians and Military Officers in Civil Employ during Suspension.

A Covenanted Civilian, when out of employ in *India* or under suspension, draws the subsistence allowance of his rank. (Court's Despatch No. 18, dated 26th May 1858).

A Military Officer in Civil employ, suspended as a punishment, and not merely pending an investigation into his conduct, receives no salary for the period of his suspension. Any Military pay which he receives by virtue of his Military commission is disbursed in the Military Department. (G. I. F. D. No 2077, dated 28th August 1865.)

Allowances of Uncovenanted Officers during Suspension.

(Sec. 58 of the Pay and Acting Allowance Code.)

5. The following Rules regulate the allowances of Uncovenanted Officers during Suspension :—

I. Saving as provided in Rule III (*ii*), the salary of an officer who is dismissed ceases absolutely from the date of his dismissal; no allowances may be granted to him for any period occupied in his prosecution of appeals against the order dismissing him.

II. Saving as provided in Rule III (*ii*), an officer suspended from office as a penalty for misconduct is entitled to no salary while he is absent from duty.

III. Subject to the proviso that, without the permission of the Local Government, no expenditure may be incurred in excess of what would have taken place if the officer had remained on duty.

(*i*) Subsistence allowance, at a rate not exceeding one quarter of his salary, may be granted by the authority suspending him to an officer removed from office, pending enquiry into his alleged misconduct. Provided that, if the officer is a European, his subsistence allowance should not commonly be less than Rs. 25 a month, if his salary be less than Rs. 100 a month, the rate may be increased accordingly. An officer of the Marine Department, whose duties are not confined to the shore, will draw in addition to the subsistence allowance, rations, or, when rations are not issued, compensation in lieu thereof.

[*Note.*—This subsistence allowance is authorised as a matter of grace only, cannot be claimed as of right. The authority suspending an officer in temporary employ, if he considers that some allowance should be granted to the suspended officer, may sanction allowance not exceeding those authorised in this section. In deciding whether such allowances should be granted, the period of the temporary employment should be taken into consideration.]

(*ii*) If the suspension of an officer as a penalty for misconduct is, upon reconsideration or appeal, held to have been unjustifiable or not wholly justifiable, or if an officer dismissed from office or suspended, pending enquiry into his alleged misconduct is, after enquiry, or upon reconsideration or appeal, reinstated, then the revising or appellate authority may grant to the officer, for the period of his absence from duty,—

(1) if the officer is honorably acquitted, full salary;

(2) otherwise such portion of his salary as to the revising or appellate Authority may seem expedient.

Travelling Allowance for Journeys on Miscellaneous Occasions.

(Chapter IX of the Civil Travelling Allowance Code.)

46. An officer, summoned to give evidence of facts which have come to his knowledge, or of matters with which he has had to deal in his public capacity, either :—

(*a*) in a criminal case (including a case before a Court Martial), or

(*b*) in a civil case to which Government is a party,

may draw Travelling Allowance under the rules in Chapter IV. Provided that he must obtain from the Court any Travelling or Subsistence Allowance to which he is entitled by the rules of the Court, and must deduct the amount from the Travelling Allowance claimed under this section.

An officer summoned to give evidence under other circumstances is not entitled, by reason of his being an Officer of Government, to any allowances, other than those admissible by the rules of the Court. But if the Court pays him any sum by way of Subsistence Allowance or compensation, apart from any allowance for Travelling expenses, he must repay that amount to Government before drawing full pay for the day or days of absence.

Exception.—Patwaris and *Chankidars* in the North-Western Provinces and Oudh, summoned as witnesses in Criminal Courts, receive their expenses at the same rates as persons of their rank in life who are not Government servants.

47. An officer compelled to leave his station, whether permanent or temporary, whether there is no Medical Officer, to procure medical advice, is entitled to Travelling Allowance for the journey to and from the nearest station where a Civil Medical Officer is located.

Rule 1.—The permission of superior authority should be obtained beforehand, where it is possible to obtain such permission without risk to the Officer requiring advice.

2.—Bills for Travelling Allowance under this section must be countersigned by the Medical Officer consulted, who must certify that the journey was, in his opinion, absolutely necessary.

3.—Controlling Officers must take care that undue advantage is not taken of this privilege. If the absence of the sick officer from his station be prolonged, he should be required to take leave on Medical Certificate.

House Building Advances.

Local Governments are competent to deal with applications for house building advances from Civil Officers under the following rules. (*Financial Department No.* 5506, *dated* 26*th August* 1874). It is not intended that interest should be charged on such advances. (*Financial Department No.* 465, *dated* 26*th may* 1876.)

Note.—When advances are given to officers for building purposes by instalments, recovery will commence from the 4th issue of pay after receipt by the officer of the first instalment of the loan, but when the loan is given in one lump sum, from the 2nd issue of pay. (*G. G. O. No.* 1031 of 1872.)

Rules regulating Advances for Building purposes to Officers in certain Localities.

FINANCIAL DEPARTMENT NO. 1680, DATED 30TH JUNE 1870.

By a General Order in the Military Department, No. 985, dated 14th October 1867, it was ruled that on the formation of new Cantonment, or where suitable accommodation is not obtainable in existing Military Station, at reasonable rents, advances would be made by Government, within limits and on conditions specified in the

order, to enable Officers to erect or purchase houses for their own accommodation.

The indulgence authorized in the order was extended by Financial Notification No. 3115 of 20th December 1867, to Officers in the Civil Administration of the Hyderabad Assigned Districts, and afterwards by various orders to Officers in the Civil Department generally.

And it was extended further to Ministerial Officers, whenever the Head of a Department, after having satisfied himself of the reality of the need, might recommend the advance as an absolute necessity in places where the building of house must be resorted to from no house being available.

The original order of 14th October 1867, thus extended to the Civil Department, had authorized conditional advances for the purchase as well as for the building of houses. A subsequent order, however, in the Military Department, No. 21, dated 6th January 1869, limited the issue of advances thenceforth to those cases in which on the formation of new Cantonments, or where suitable accommodation is not obtainable in existing Military Stations at reasonable rents, officers desire to erect houses for their accommodation.

The indulgence to Officers in the Civil Department must be similarly limited to those who desire to build houses at places where none are available, or where house-rent is dear.

The advances will be subject to the following conditions :—

I.—All such advances must be *bonâ fide* required for the purpose of building suitable houses for the personal residence of the Officers concerned ; and if more is advanced than shall be actually expended for the purpose, the surplus shall be refunded to Government.

II.—Such advances shall not in the aggregate exceed six months' salary, and the whole advance must be re-paid in two years.

III.—Recovery will be made by the Treasury Officer or other disbursing Officer, deducting monthly instalments, equal to one-twenty-fourth part of the advance, from the salary bills of the Officer concerned.

IV.—In order to secure Government from loss consequent on an Officer dying or quitting the service prior to complete repayment of

the advance, the house so built must be mortgaged to Government, by whom the mortgage will be released on the full amount of the advance being liquidated.

V.—An Officer quitting or removed from the Station where he has built a house, before the whole amount of the advance has been liquidated, will continue liable to the deduction of his monthly instalment until the advance has been re-paid; but with the special sanction of the Local Government he may be allowed to dispose of the house, provided he is thereby enabled to clear off at once the whole amount due; or to transfer it to any Officer of his own or higher rank, the future deductions being made from the salary of such Officer.

VI.—An Officer will not, under any circumstances, be allowed a second advance whilst any amount remains due on a previous one.

VII.—Application for advances must be made through the applicant's departmental superior, who will record his opinion as to the necessity for the assistance solicited. The applicant must certify that the sum is to be expended in building only, and pledge himself that, should there be any surplus funds after the house is completed, they will be at once refunded to Government.

VIII.—The last Pay Certificate granted to Officers under advances must specify the original amount of such advance, the amount repaid, and the balance remaining due.

A form of Mortgage Bond* will be issued to Officers who may wish to avail themselves of the advance.

**Form of Mortgage Bond.*

This INDENTURE made the day of one thousand eight hundred and seventy between A. B. of a Civil Officer of of the one part and the Secretary of State for India in Council of the other part *witnesseth* that under the provisions of the Notification of the Governor-General in Council, dated the thirtieth day of June one thousand eight hundred and seventy, Number 1080, and in consideration of the sum of Rupees paid to the said A. B. by the said Secretary

of State in Council, (the receipt whereof the said A. B. doth hereby acknowledge) for the purpose of enabling the said A. B. to defray the expenses of building a suitable house for his own residence in

he the said A. B. doth hereby for himself, his heirs, executors and administrators covenant with the said Secretary of State in Council and his successors that he the said A. B., his heirs, executors or administrators will pay unto the said Secretary of State, his Successors or assigns, the said sum of Rupees on the day of **And this Indenture also witnesseth* that for the consideration aforesaid, he the said A. B. doth hereby convey unto the said Secretary of State, his successors and assigns all that dwelling-house lately erected† and built by him the said A. B. in being on a parcel of land containing more or less, and bounded on the north by on the south by on the east by and on the west by together with all the out-offices, stables, cook-rooms and out-buildings of all kinds lately erected‡ or built by the said A. B. and used or intended to be used with the said dwelling-house and all the rights, easements and appurtenances to the same or any of them belonging *to hold* the said premises *unto* the said Secretary of State, his successors and assigns, absolutely as their own property. *Provided always* that if and as soon as the said sum of Rupees shall have been repaid by the deduction of monthly instalments of the salary of the said A. B. as in the said Notification mentioned or by any other means whatsoever, then the said Secretary of State, his successors and assigns will, at any time thereafter upon the request and at the cost of the said A. B, his executors, administrators and assigns, re-convey the said premises unto the said A. B., his executors, administrators and assigns or as he or they shall direct. *And it is hereby declared* that if the

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* Two years from the date of the loan.

† When the house has not yet been erected, or is in course of being built, for "lately erected," say "hereafter to be erected" or "now being erected," as the case may be.

‡ Where the offices, &c., have not yet been erected, or are in course of being built, for "lately erected" say "hereafter to be erected," or "now being erected," as the case may be.

said A. B. shall die or quit the service before the said sum of Rupees shall have been fully paid of, then and in either of such cases, it shall be lawful of the said Secretary of State, his successors or assigns to sell the said premises or any part thereof either together or in parcels and either by public auction or by private contract with power to buy in or rescind any contract for sale and to re-sell without being responsible for any loss which may be occasioned thereby *and to do* and execute all such acts and assurances for effectuating any such sale as the said Secretary of State, his sucessors or assigns shall think fit. *And it is hereby declared* that the receipt of the said Secretary of State, his successors or assigns for the purchase-money of the premises sold or any part thereof shall effectually discharge the purchaser or purchasers therefrom. *And it is hereby declared* that the said Secretary of State, his successors and assigns shall hold the moneys to arise from any sale in pursuance of aforesaid power *upon trust* in the first place thereout to pay all the expenses incurred on such sale and in next place to apply such moneys in or towards satisfaction of the moneys for the time being owing on the security of these presents and then to pay the surplus (if any) to the said A. B., his executors, administrators or assigns. *And it is hereby declared* that the said Notification shall be deemed and taken to be part of these presents. *In witness whereof* the said A. B. and C. D. by order of the Governor-General of India in Council [or of the Governor of in Council or of the Lieutenant-Governor of or of the Chief Commissioner of] (on behalf of the said Secretary of State in Council) have hereunto set their hands and seals, the day and year first above written.

Stamp Duty on Instruments executed by Salaried Officers of Government.

All instruments, executed by salaried officers of Government for the due performance of their duties are exempt from Stamp Duty. (G. I. F. No. 2280, dated 23rd July 1875.)

Applications for Patronage for Literary or other Works.

The Governor-General in Council is pleased to direct that officers in the service of Government, who may desire to solicit Government patronage other than that of the Local Government, for literary or other works, shall apply to the Government of India, and not to the Secretary of State. (G. I. F. D. No. 855, dated 13th February 1878.)

House Rent Recoveries.

When Government has to pay rent for any house occupied by a Civil Officer, the actual rent, if the officer occupies the whole house, or a fair share, to be determined by the Superintending Engineer, if he occupies a part, should be recovered from the officer. (G. I. F. D. No. 3476, dated 27th September 1873.)

Telegraph Messages.

Attention is drawn to the following clause in the agreement with Reuter's Company:—

"The Government officers to whom copies of telegrams of the said Company may be transmitted under agreement, shall not publish the same, either by circulating them or posting them in any place of public resort, or otherwise howsoever." (G. I. P. W. D. No. 404-18, dated 17th November 1877.)

Securities to be taken from Public Servants.

Without the special sanction of the Local Government in respect of any particular case or class of cases, the only form of security to be taken from treasurers or other

officers of Government, who are entrusted with the charge of public money, shall consist of Promissory Notes (including Stock Notes) of the Government of India. (G. I. F. D. No. 3454, dated 2nd September 1882.)

Note.—Subordinate Revenue officers in the Bombay Presidency, who are entrusted with the charge of public money, are allowed to deposit Government Promissory Notes, or execute a bond in the form contained in Schedule B of the Land Revenue Code of 1879. (G. I. F. D. No 2232, dated 25th July 1883.)

The well-known rule is re-affirmed that the Revenue authorities, subject to the orders of the Local Government, are responsible for seeing that adequate security is taken from any of their subordinates (including all officers employed in District and Sub-treasuries) who may be entrusted with the custody of public money. (G. I. F. D. No 3454, dated 2nd September 1882.)

A form for Security Bonds is prescribed in G. I. F. D. No 3857, dated 5th November 1885.

The use of this form is subject to the explanation given in Resolution No. 774, dated 12th May 1885.

"While Promissory Notes lodged as security may be returned after 6 months" after an officer has vacated his appointment, the bond should be retained permanently or until it is certain that there is no necessity for keeping it any longer. The form prescribed is only a model, Local Governments and Administration having full power to fix the precise terms of such bonds without reference to the Government of India. (G. I. F. D. No 774, dated 12th May 1885.)